

# MANAGEMENT MEMO

SUBJECT:	NUMBER:
<b>Implementation of Required Employee Benefits in Specified Personal Services Contracts</b>	00-07
REFERENCES:	DATE ISSUED: 08/31/00
<b>AB 2866, GOVERNMENT CODE SECTION 19134 (NEW)</b>	EXPIRES: No Expiration
	ISSUING AGENCY: Department of General Services

As of July 10, 2000, AB 2866 requires that specified personal service contracts provide employee benefits valued at least 85 percent of the cost of benefits provided to state employees for similar duties. This applies to persons providing janitorial and housekeeping services, custodians, food service workers, laundry workers, window cleaners, and security guard services.

*Government Code section 19134 (new) states:*

- (a) Personal services contracts entered into by a state agency in accordance with subdivision (a) of Section 19130 for persons providing janitorial and housekeeping services, custodians, food service workers, laundry workers, window cleaners, and security guard services shall include provisions for employee benefits that are valued at least 85 percent of the state employer cost of comparable benefits provided to state employees for performing similar duties.*
- (b) For purposes of this section, "benefits" includes "health, dental, vision, and similar group insurance benefits."*
- (c) The Department of Personnel Administration shall determine annually the state employer benefit costs for workers covered under subdivision (a).*
- (d) This section applies to all contracts exceeding 90 days.*

This Management Memo provides specific information regarding the implementation of the requirements of Government Code section 19134.

## **A. Application of Government Code 19134**

1. This new benefit requirement applies to all contracts **awarded** after July 10, 2000, which are for a term exceeding 90 days.
2. Contracts currently in effect which expire prior to July 1, 2001, may be re-bid and the current contract should then be terminated, so as to provide for the inclusion of required benefits. Agencies should take into consideration the contractor's expectation in performing through the full term of the contract, the potential termination costs, and the impact on the agency's internal contracting processes.
3. If a contract awarded prior to July 10, 2000 is to remain in effect beyond July 1, 2001, the contract should be re-bid and the current contract should then be terminated so as to have a new contract in place by July 1, 2001. Exceptions may be granted by the Director of General Services if necessary to maintain essential services.

4. If a contract awarded before July 10, 2000, has a renewal option and the contract does not have the required benefits, such renewal should not be exercised to go into effect beyond July 1, 2001. Exceptions may be granted by the Director of General Services if necessary to maintain essential services.
5. Services obtained through master contracts shall not continue past the term of the underlying master contract or July 1, 2001, whichever is first, without inclusion of these benefits. This may require the termination of such contracts effective July 1, 2001 and the procurement of new contractors prior thereto in order to assure continuity of services. Exceptions may be granted by the Director of General Services if necessary to maintain essential services.

## **B. Benefits**

1. Government Code section 19134 requires benefits valued at 85 percent of comparable benefits provided by the State. Based upon figures provided by the Department of Personnel Administration for benefits provided by the State for health, dental and vision benefits, the rates required by section 19134 have been determined as of July 1, 2000, to be as follows:
  - a. Single party: \$ 181.63 per month
  - b. Single party plus one dependent: \$ 410.58 per month
  - c. Single party plus two or more dependents: \$ 542.36 per month

These rates represent 85 percent of the total state benefits for health, dental and vision benefits. Contracts should provide for an annual rate adjustment based on an annual July 1 determination by DPA as to the amount of benefits to be provided to state employees as of the date of such determination.

2. Contracts subject to these requirements shall include in the bid documents and contracts appropriate language requiring the contractor to agree to provide benefits. In lieu of benefits, the contractor may pay employees a sum equivalent to the above-determined rates as calculated by DPA.
3. Consistent with state practices, benefits shall be required to be provided or paid to all employees working on state contracts who work half-time or more.
4. Contractors failing to provide benefits or in lieu payments to their employees shall be deemed to be in breach of contract. Bid documents and the contract shall provide that such a breach is a material breach that warrants immediate termination of the contract by the State.

## **C. Agency funding**

The Budget Act of 2000 contains funding for the increased costs to state agencies of requiring their contractors to provide the benefits specified in section 19134. The Department of Finance will issue subsequent instructions regarding the process for agencies to obtain funding for any necessary and related increased costs.

**D. Contract language**

Agencies requiring assistance in developing contract language regarding the implementation of new requirements under section 19134 may contact the Department of General Services, Office of Legal Services at 324-6330.

Further information regarding implementation of section 19134 may be obtained by contacting Jeff Marschner, Chief Counsel, Department of General Services at (916) 322-5944 or CALNET 492-5944.

A handwritten signature in black ink, reading "Barry D. Keene". The signature is fluid and cursive, with the first name "Barry" and last name "Keene" clearly legible, and "D." as a middle initial.

BARRY D. KEENE, Director  
Department of General Services